

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #3	CCRB Case #: 201907845	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/25/2019 , Sunday, 08/25/2019 9:11 AM	Location of Incident: [REDACTED]	Precinct: 103	18 Mo. SOL 2/25/2021	EO SOL 10/12/2021	
Date/Time CV Reported Sun, 08/25/2019 10:26 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/04/2019 10:54 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Korn	12954	966141	103 PCT
2. POM Gregory Lepre	26596	965265	103 PCT
3. POM Brian Gilmor	05981	963541	103 PCT
4. POM Anthony Pala	17692	964200	103 PCT
5. Officers			
6. POM Andres Diaz	12435	960456	M E L D
7. POM Christophe Strauss	26254	964303	103 PCT
8. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Gilmor	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Brian Gilmor used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Anthony Pala	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Brian Gilmor used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C. An officer	Force: At § 87(2)(b) [REDACTED] in Queens, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Brian Gilmor	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Brian Gilmor used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Anthony Pala	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Anthony Pala used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Matthew Korn	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Matthew Korn used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Christophe Strauss	Force: At § 87(2)(b) [REDACTED] in Queens, Police Officer Christophe Strauss used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM Gregory Lepre	Force: At § 87(2)(b) in Queens, Police Officer Gregory Lepre used physical force against § 87(2)(b)	
I.POM Andres Diaz	Force: At § 87(2)(b) in Queens, Police Officer Andres Diaz used physical force against § 87(2)(b)	
J.POM Anthony Pala	Force: At § 87(2)(b) in Queens, Police Officer Anthony Pala used physical force against § 87(2)(b)	
K. Officers	Force: At § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)	
L.POM Anthony Pala	Force: At § 87(2)(b) in Queens, Police Officer Anthony Pala restricted § 87(2)(b)'s breathing.	
M. An officer	Force: At § 87(2)(b) in Queens, an officer struck § 87(2)(b) with a radio.	
N. Officers	Discourtesy: At § 87(2)(b) in Queens, officers spoke discourteously to § 87(2)(b)	
O. Officers	Abuse: At § 87(2)(b) in Queens, officers threatened § 87(2)(b)	
P.POM Brian Gilmor	Abuse: At § 87(2)(b) in Queens, Police Officer Brian Gilmor threatened § 87(2)(b) with the use of force.	
Q.POM Brian Gilmor	Discourtesy: At § 87(2)(b) in Queens, Police Officer Brian Gilmor spoke discourteously to § 87(2)(b)	
R.POM Anthony Pala	Discourtesy: At § 87(2)(b) in Queens, Officer Anthony Pala spoke discourteously to § 87(2)(b)	
S.POM Brian Gilmor	Discourtesy: At the 103rd Precinct stationhouse in Queens, Police Officer Brian Gilmor spoke discourteously to § 87(2)(b)	

Case Summary

On August 25, 2019, Sergeant Alexander Wong of the 103rd Precinct called IAB and filed this complaint on behalf of § 87(2)(b) generating original log # 19-32269. The CCRB received the log on September 4, 2019. Former Investigator Azmitia was assigned the complaint on September 5, 2019. The undersigned was reassigned this complaint on June 24, 2021.

On August 25, 2019, at approximately 7:46 a.m., officers from the 103rd Precinct including Police Officer Brian Gilmor, Police Officer Anthony Pala, Police Officer Christopher Strauss, Police Officer Matthew Korn, Police Officer Gregory Lepre, and Police Officer Andres Diaz, responded to a 911 call made by the son of § 87(2)(b)'s girlfriend known to the investigation as "§ 87(2)(b) regarding § 87(2)(b) assaulting his girlfriend § 87(2)(b) § 87(2)(b) at § 87(2)(b) § 87(2)(b) in Queens. PO Gilmor and PO Pala threw § 87(2)(b) onto the couch (**Allegations A and B: Force,** § 87(2)(g) While § 87(2)(b) was on the couch, an officer allegedly twisted his ankle (**Allegation C: Force,** § 87(2)(g)

PO Gilmor, PO Pala, PO Korn, PO Strauss, PO Lepre, and PO Diaz held § 87(2)(b) down on the couch and took him to the ground (**Allegations D-G: Force,** § 87(2)(g) **Allegation H: Force, Miscellaneous:** § 87(2)(g) **Allegation I: Force,** § 87(2)(g) While on the ground, officers allegedly punched § 87(2)(b) in the face, ribs, stomach, and legs (**Allegation J: Force,** § 87(2)(g) PO Pala allegedly put his knee on § 87(2)(b)'s neck (**Allegation K: Force,** § 87(2)(g) An officer allegedly hit § 87(2)(b) in the head with a radio (**Allegation L: Force,** § 87(2)(g)

During the struggle, officers, including PO Gilmor, allegedly said, "Fuck you, little shit, "Stop fucking moving," and, "We're going to fuck you up if you keep moving" to § 87(2)(b) (**Allegation M: Discourtesy,** § 87(2)(g) **Allegation N: Abuse of Authority:** § 87(2)(g) **Allegation O: Discourtesy,** § 87(2)(g) **Allegation P: Abuse of Authority,** § 87(2)(g) PO Pala said, "Pull his fucking legs out," "Put him on his fucking face," "Hold his fucking ass down," "You're being a fucking baby," and "The fuck you playing," (**Allegation Q: Discourtesy,** § 87(2)(g)

After § 87(2)(b) was handcuffed and escorted outside, he was transported to § 87(2)(b) Hospital where he was treated for a laceration to the left eyelid, an abrasion to the lip, and a sprained ankle (Board Review 01)

After receiving medical attention, § 87(2)(b) was taken back to the 103rd Precinct. At the stationhouse, PO Gilmor allegedly said to § 87(2)(b) "Kiss my ass," "Fuck you," "You ain't getting shit," and "Fuck you, this is not McDonalds (**Allegation R: Discourtesy,** § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

According to PO Pala, § 87(2)(b) passed away in the Spring of 2021.

The investigation obtained the BWC footage of the following responding officers; PO Gilmor, PO Diaz, PO Strauss, PO Dudley, PO Korn, PO Martinez, PO Pala, PO Lepre, Sgt. Wong, and PO Iadevaio (Board Review 03). PO Korn, PO Strauss, and PO Pala's BWC footage captured most clearly the allegations

described above (Board Review 05-07). PO Diaz's BWC footage captured his interaction with § 87(2)(b)'s son § 87(2)(b) who made the initial 911 call (Board Review 04).

PO Lepre resigned from the NYPD in September of 2020.

PO Diaz is on Military Leave as of January 2021.

Findings and Recommendations

Allegation (A) Force: Inside of § 87(2)(b) in Queens, Police Officer Brian Gilmor used physical force against § 87(2)(b)

Allegation (B) Force: Inside of § 87(2)(b) in Queens, Police Officer Anthony Pala used physical force against § 87(2)(b)

Allegation (C) Force: Inside of § 87(2)(b) in Queens, an officer used physical force against § 87(2)(b)

Allegation (D) Force: Inside of § 87(2)(b) in Queens, Police Officer Brian Gilmor used physical force against § 87(2)(b)

Allegation (E) Force: Inside of § 87(2)(b) in Queens, Police Officer Anthony Pala used physical force against § 87(2)(b)

Allegation (F) Force: Inside of § 87(2)(b) in Queens, Police Officer Matthew Korn used physical force against § 87(2)(b)

Allegation (G) Force: Inside of § 87(2)(b) in Queens, Police Officer Christophe Strauss used physical force against § 87(2)(b)

Allegation (H) Force: Inside of § 87(2)(b) in Queens, Police Officer Gregory Lepre used physical force against § 87(2)(b)

Allegation (I) Force: Inside of § 87(2)(b) in Queens, Police Officer Andres Diaz used physical force against § 87(2)(b)

Allegation (J) Force: Inside of § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)

Allegation (K) Force: Inside of § 87(2)(b) in Queens, Police Officer Anthony Pala restricted § 87(2)(b)'s breathing.

Allegation (L) Force: Inside of § 87(2)(b) in Queens, an officer struck § 87(2)(b)

It is undisputed that § 87(2)(b)'s son § 87(2)(b) called 911. PO Martinez's BWC footage captured § 87(2)(b) explaining that he called 911 because he observed § 87(2)(b) strike his mother in the face during an argument (Board Review 04, beginning at 03:25). As a result, the above officers responded to the incident location.

§ 87(2)(b) was interviewed via video teleconference twice (Board Review 08, 09). § 87(2)(b) testified that he and § 87(2)(b) got into an argument because § 87(2)(b) had been corresponding with another woman. Approximately one hour later, officers responded to the location and § 87(2)(b) let them inside. § 87(2)(b) observed PO Martinez enter § 87(2)(b) room. Approximately 10 seconds later, PO Martinez came back out and said, "Cuff him." § 87(2)(b) kept his hands together in front of him to avoid being handcuffed. An officer grabbed § 87(2)(b)'s left wrist and put his arms behind his back. The officers then grabbed § 87(2)(b) by the shoulders, lifted him up, and threw him on the

ground. § 87(2)(b) felt a knee on his chest, after which he lost consciousness. An officer subsequently hit § 87(2)(b) in the face with a radio. When § 87(2)(b) regained consciousness, he was already downstairs.

In his second interview, § 87(2)(b) testified that prior to the officers taking him to the ground, he had attempted to jump over a barrier that separated the living room and the stairs leading to the front door to avoid being arrested (Board Review 09). The officers grabbed § 87(2)(b) from behind as he tried to jump over the barrier and threw him onto the ground. The officers turned § 87(2)(b) onto his stomach. § 87(2)(b) felt the officers punch him on his left cheek, ribs, stomach, and legs, and one officer kicked his face. He was unable to identify which officers hit each part of his body. One of the officers grabbed § 87(2)(b)'s leg and twisted it to the point that his ankle was fractured. § 87(2)(b) did not recall whether he swung his legs or attempted to kick the officers before his leg was grabbed. § 87(2)(b) continued to move and spread his arms to avoid being handcuffed and to get away from the officers. Two officers held each of § 87(2)(b)'s arms to keep him from moving. The officers then took § 87(2)(b) to the ground. While on the ground, PO Pala put his knee on the back of § 87(2)(b)'s neck, rendering him unable to breathe for approximately 15 seconds. § 87(2)(b) lost consciousness because he could not breathe. After § 87(2)(b) was handcuffed, officers grabbed § 87(2)(b)'s shoulders, picked him up, and seated him up right on the couch. Officers eventually put leg shackles on § 87(2)(b). § 87(2)(b) believed he sustained minor fractures to his ankle as well as a laceration to his eye that required stitches.

PO Gilmore (Board Review 10) testified that he responded to a family assault at the location. Upon arrival, PO Gilmore heard yelling from inside of the residence. PO Gilmore approached the residence and knocked on the door. § 87(2)(b) opened the door and led the officers to the second floor where § 87(2)(b) was seated on the couch. § 87(2)(b) and § 87(2)(b) continued to yell at each other. PO Gilmore told § 87(2)(b) to calm down and § 87(2)(b) responded, "No this is my apartment. Don't tell me what to do here." PO Gilmore and the other officers separated § 87(2)(b) and § 87(2)(b). PO Dudley and PO Gilmore stayed with § 87(2)(b). After a couple of minutes, PO Martinez said, "Put him in cuffs." PO Gilmore and PO Pala approached § 87(2)(b) and asked him to put his hands behind his back. As PO Gilmore went to grab § 87(2)(b)'s arm, § 87(2)(b) stepped on the couch and attempted to jump over the balcony on to the stairs. PO Pala grabbed § 87(2)(b)'s left arm and PO Gilmore grabbed § 87(2)(b)'s left arm and pulled him onto the couch. § 87(2)(b) turned his body towards the back of the couch and grabbed onto the back of the couch with both hands, tucking his arms in. § 87(2)(b) continued to resist and would not let the officers place him into handcuffs. PO Gilmore and PO Pala eventually pulled § 87(2)(b)'s arms behind his back. Another officer was able to put him into handcuffs. PO Gilmore could not recall who handcuffed § 87(2)(b). Once he was in handcuffs, § 87(2)(b) was seated on the couch face forward. § 87(2)(b) continued to yell and kick his legs. At one point, § 87(2)(b) kicked PO Lepre in the chest, which caused his BWC to fall off. § 87(2)(b) proceeded to stomp on PO Lepre's BWC. § 87(2)(b) also attempted to bite PO Gilmore and PO Lepre. Officers eventually took § 87(2)(b) to the ground face first. § 87(2)(b) continued to thrash his legs. Officers eventually put leg shackles on § 87(2)(b). § 87(2)(b) was placed into leg shackles. PO Gilmore stated that he did not assist in taking § 87(2)(b) to the ground. While on the ground, PO Gilmore held § 87(2)(b) down by his left shoulder. PO Gilmore did not see any officers make contact with § 87(2)(b)'s face at any point. PO Gilmore did not punch § 87(2)(b) in the face nor did he see any other officer do so. PO Gilmore did not kick § 87(2)(b) while he was on the ground nor did he see any other officer do so. PO Gilmore did not put his foot on the back of § 87(2)(b).

§ 87(2)(b) s neck while he was on the ground nor did he see any other officer do so. PO Gilmor did not strike § 87(2)(b) in the face with a department issued radio nor did he see any other officer do so.

PO Pala (Board Review 11) testified that he was familiar with § 87(2)(b) prior to the incident because he was a known perpetrator within the 103rd Precinct. § 87(2)(b) had a history of violence, resisting arrest, carrying firearms, assaulting police officers, and beating up his girlfriend. PO Pala stated that he recognized the address when the call came over as § 87(2)(b) s home address. This was PO Pala s second time responding to § 87(2)(b) s residence. PO Pala s testimony was generally consistent with PO Gilmor s regarding his arrival at the location, how he and PO Gilmor physically stopped § 87(2)(b) from jumping over the stair railing, and how they put him on the couch face-first. Once § 87(2)(b) was handcuffed and seated on the couch, he began “fighting” the officers; he was “flailing” his arms and throwing his elbows. PO Pala instructed PO Martinez to go and retrieve the leg shackles. During this time, PO Pala stood on one of § 87(2)(b) feet to hold down § 87(2)(b) s legs. PO Pala did not see any officer hold onto or twist § 87(2)(b) s ankle. PO Pala stated that § 87(2)(b) could have sustained an injury to his ankle by stomping on the ground as he did. Once PO Martinez returned, PO Pala put the leg shackles on § 87(2)(b) attempted to bite PO Strauss and PO Lepre while PO Pala applied the leg shackles. After he was put into leg shackles, § 87(2)(b) continued to kick and spit at the officers. PO Pala took § 87(2)(b) s left arm and guided him to the ground face-first. Once on the ground, § 87(2)(b) continued to kick, bite, and spit. PO Pala did not kick or punch § 87(2)(b) while he was on the ground nor did he see any other officer do so. PO Pala did not strike § 87(2)(b) in the head with his radio at any point during this incident nor did he see any other officer do so. PO Pala held § 87(2)(b) down on the ground by the back side of his shoulder. PO Pala did not put his foot on § 87(2)(b) s back at any point nor did he see any other officer do so. PO Pala did not punch § 87(2)(b) in the face at any point during this interaction nor did he see any other officer do so.

PO Korn s (Board Review 13) testimony was generally consistent with PO Gilmor s regarding his arrival at the location, initial interaction went with § 87(2)(b) and how PO Gilmor and PO Pala brought § 87(2)(b) to the couch. Once § 87(2)(b) was on the couch, PO Korn grabbed § 87(2)(b) s left arm and placed it behind his back. PO Korn held onto § 87(2)(b) s hand so that the handcuffs could be applied. § 87(2)(b) continued to kick, scream, and tense his body. Once the handcuff was on § 87(2)(b) s left wrist, PO Korn let go completely. § 87(2)(b) continued to kick and scream. PO Korn grabbed § 87(2)(b) s right leg near the shin and held onto it until he was placed into leg shackles. PO Korn did not specifically recall holding onto § 87(2)(b) s ankle. PO Korn did not twist § 87(2)(b) s leg at any point. Once § 87(2)(b) was seated on the couch, § 87(2)(b) thrashed and kicked his legs and attempted to bite the officers. PO Korn held on to § 87(2)(b) s legs until the leg shackles were applied, at which point, he let go. PO Korn did not punch § 87(2)(b) in the face nor did he see any other officer do so. PO Korn did not hit § 87(2)(b) with his radio nor did he see any other officer do so. PO Korn did not put his foot on the back of § 87(2)(b) s neck while he was on the ground nor did he see any other officer do so. PO Korn did not strike or kick § 87(2)(b) while he was on the ground nor did he see any other officer do so.

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b) PO Strauss could not recall if he participated in apprehending § 87(2)(b) PO Strauss could not recall if he helped to restrain § 87(2)(b) s leg at any point. PO Strauss did not twist § 87(2)(b) s ankle at any point nor did he see

any other officer do so. PO Strauss could not recall if § 87(2)(b) had sustained any injuries at that point. PO Strauss did not kick § 87(2)(b) on his sides or his legs nor did he see any other officer do so. PO Strauss did not hit § 87(2)(b) in the face with a radio nor did he see any other officer do so. PO Strauss could not recall if § 87(2)(b) complained of difficulty breathing at any point. PO Strauss did not step on the back of § 87(2)(b)'s neck nor did he see any other officer do so. § 87(2)(b) did not complain of pain to his ankles at any point.

On July 27, 2021, Principal Assistant Whaley from the 103rd Precinct stated that PO Lepre had resigned from the NYPD on September 11, 2020 (Board Review 15). A request for the reason and date of PO Lepre's separation from service confirmed that PO Lepre resigned from the NYPD on September 11, 2020 (Board Review 16). As a result, PO Lepre was not interviewed by the CCRB.

On January 14, 2021, Sgt. Chervoni from the Military Extended Leave Desk stated that PO Diaz was currently on military leave and due to return September 30, 2021 (Board Review 17). On August 16, 2021, the undersigned sent an email to the Military Extended Leave Desk's electronic address confirming PO Diaz's return date. This will be added to the case file upon receipt. As a result, PO Diaz was not interviewed.

After reviewing all of the BWC footage associated with this incident, the investigation determined that PO Diaz, PO Pala, PO Korn, and PO Strauss' footage best captured the entire incident, from beginning to end.

PO Diaz's BWC, which is approximately 22:54 minutes in length, captures his initial interaction with § 87(2)(b) (Board Review 04, IA # 163). At 03:25, PO Martinez says asks § 87(2)(b) if there was a child at the location. § 87(2)(b) responds, "Yes." PO Martinez responds, "Okay well they called." At 03:41, PO Diaz goes into one of the bedrooms to speak with Christopher. PO Diaz asks § 87(2)(b) what happened. § 87(2)(b) explains that § 87(2)(b) took § 87(2)(b)'s phone and as § 87(2)(b) tried to get it back § 87(2)(b) punched her in the face.

PO Pala's BWC is approximately 08:59 minutes in length (Board Review 07). At 1:40 minutes, several officers, including PO Pala, approach § 87(2)(b) attempts to jump over a divider to leave the premises, but several officers, including PO Pala, pull him back and stop him from doing so. The ensuing struggle is difficult to parse, but PO Pala and PO Gilmor are seen pulling § 87(2)(b) back by the shoulders until he momentarily lands on his back on one couch. At 1:55 minutes, § 87(2)(b) appears to stand, although it is unclear whether he does so on his own or if the officers pull him up. The officers and § 87(2)(b) engage in a physical struggle until the officers appear to push § 87(2)(b) towards the couch, where § 87(2)(b) kneels on the cushions with his torso against the backrest. At 2:00 minutes, PO Pala and other officers are seen pulling § 87(2)(b)'s left arm behind his back. It takes several seconds and at least two officers to do so, as multiple hands are seen on § 87(2)(b)'s arm, but it is unclear to which officers they belong. At 2:25 minutes, § 87(2)(b) pulls his left arm towards the front of his body again. PO Pala pulls § 87(2)(b)'s arm back again, and another officer's hands are seen handcuffing § 87(2)(b). At 2:45 minutes, one of § 87(2)(b)'s feet is seen pulled up until it touches his backside. Shortly thereafter, officers move § 87(2)(b) to sit upright on the couch. At 3:08 minutes, § 87(2)(b) states that officers punched him in his face. At 3:25 minutes, § 87(2)(b) attempts to stand, and two officers push down on his shoulders until he is seated again. Immediately thereafter, § 87(2)(b) kicks his right leg outward, making contact with PO

Lepre. Officers immediately approach § 87(2)(b) and PO Lepre and PO Korn are seen holding his legs down at the thighs. At 3:38 minutes, PO Pala says, “Put him on his face on the floor.” Officers surround § 87(2)(b) to restrain him. § 87(2)(b) continues to argue with officers. At 5:00 minutes, § 87(2)(b) kicks his feet outward again while officers hold onto his shoulders. At 5:20 minutes, § 87(2)(b) moves as though he is going to stand again. At 5:35 minutes, PO Pala and two to other officers begin to approach § 87(2)(b). The other two officers lift § 87(2)(b) s legs, and PO Pala begins to place a leg shackle on § 87(2)(b) s left ankle. Officers are seen holding § 87(2)(b) s left leg, which moves as though § 87(2)(b) is attempting to kick again. PO Pala places the other leg shackle on § 87(2)(b) s right ankle. At 5:55 minutes, officers immediately remove § 87(2)(b) from the couch and put him on the floor on his front. PO Pala puts his hands near the back of § 87(2)(b) s neck area while he is on the ground. At 7:00 minutes, officers lift § 87(2)(b) off the ground and begin walking him to the stairs. Near the top of the stairs, § 87(2)(b) appears to lose his footing, and he says to the officers, “You’re trying to throw me?” And officer responds that they are trying to hold him. The officers take § 87(2)(b) downstairs and to the sidewalk outside of the home.

PO Korn’s BWC is approximately 20:25 minutes in length and the audio begins at the 00:30 mark (Board Review 05, IA # 163). At 02:14, § 87(2)(b) attempts to walk out of the apartment. PO Korn blocks him from exiting and PO Martinez says, “You’re not leaving.” At 03:05, § 87(2)(b) walks away from PO Gilmor and PO Pala and attempts to jump over the stair railing. PO Gilmor and PO Pala grab § 87(2)(b). At 03:10, a struggle ensues between § 87(2)(b) and the officers. At 03:38, PO Korn holds on to one of § 87(2)(b) s legs near his ankle area. At 05:54, PO Gilmor and PO Lepre hold onto § 87(2)(b) s shoulders while he is seated upright on the couch. At 06:17, § 87(2)(b) stomps his feet on the ground. At 06:51, PO Korn holds onto one of § 87(2)(b) s legs while officers put leg shackles on him. At 07:14, PO Pala pulls § 87(2)(b) from the couch and puts him on the ground face first. At 07:22, PO Pala PO Pala is captured holding § 87(2)(b) on the ground by putting his hands near § 87(2)(b) s neck.

PO Strauss’ BWC footage is approximately 21:51 minutes in length (Board Review 06, IA # 164). At 04:00, PO Gilmor reaches to put § 87(2)(b) into handcuffs. § 87(2)(b) attempts to jump over the stair railing. PO Gilmor and PO Pala grab § 87(2)(b) and pull him back from the railing. PO Strauss attempts to secure § 87(2)(b) s hands while § 87(2)(b) is facing the back of the couch. PO Strauss, PO Korn, PO Pala, PO Gilmor, and PO Lepre stand over § 87(2)(b) and hold him down. PO Strauss orders § 87(2)(b) to give them his hands. At 05:29, § 87(2)(b) states that officers punched him in the face, which is not captured in the footage. At 05:36, § 87(2)(b) attempts to stand up. PO Pala and PO Lepre push § 87(2)(b) back onto the couch by his shoulders. At 05:39, § 87(2)(b) kicks his left legs up in the air, making contact with PO Lepre’s chest. At 07:15, § 87(2)(b) stomps his left foot on the ground while PO Pala and PO Lepre continue to hold him by the shoulders. At 07:49, PO Strauss holds onto § 87(2)(b) s left leg while PO Korn holds onto his right as PO Pala applies the leg shackles. During this time PO Diaz appears to hold onto § 87(2)(b) s legs as well. At 08:22, PO Pala takes § 87(2)(b) to the ground, face first.

After reviewing his BWC footage in IA # 165, which showed PO Pala’s hands near § 87(2)(b) s neck while he is on the ground, PO Pala maintained that he did not have his foot on § 87(2)(b) s back. While § 87(2)(b) was on the ground, PO Pala held him down by holding the back of his right shoulder.

During the interview, former Inv. Azmitia showed PO Strauss a portion of his BWC (beginning at 04:00 minutes and ending at 05:17), which showed PO Strauss lifting up § 87(2)(b)'s leg to help PO Pala put leg shackles on him. After reviewing his BWC footage, PO Strauss acknowledge lifting § 87(2)(b)'s leg so that the leg shackles could be applied.

§ 87(2)(g)

In their Threat, Resistance, and Injury (TRI) reports prepared for § 87(2)(b) PO Gilmor, PO Pala, PO Korn, PO Lepre acknowledged using a forcible take down against him (Board Review 18). In his TRI report, PO Diaz initially noted that he “held subject § 87(2)(b) down on couch and held foot to get leg shackles” but then crossed it out and marked “no force used.” Photos of § 87(2)(b)'s injuries were attached PO Pala's TRI report. The Investigating Supervisor's Report (ISAR) prepared by Sgt. Wong is consistent with the officer's testimonies regarding how § 87(2)(b) attempted to evade arrest by jumping over the stairway railing. The narrative portion of the ISAR was consistent with the officer's testimonies and the BWC footage regarding how § 87(2)(b) attempted to evade arrest and actively resisted the officer's attempts to handcuff him. The ISAR also noted that PO Gilmor and PO Pala used force to stop § 87(2)(b) from jumping over the stair railing, that PO Korn and PO Lepre assisted in handcuffing § 87(2)(b) and that it was likely § 87(2)(b) sustained the laceration on his eyelid when he was pulled back from the stair railing. (Board Review 18). After reviewing the ISAR in his interview, PO Korn stated that he did not know of any officer specifically dealing with § 87(2)(b)'s left ankle.

§ 87(2)(b)'s arrest photograph shows the laceration § 87(2)(b) sustained on his left eye lid (Board Review 27)

§ 87(2)(b)

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of service or when it is reasonable to place a person in custody or prevent escape from custody. In determining whether the use of force is reasonable, officers must consider the nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, the immediacy of perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody or attempting to evade arrest by flight, the number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, the subject's violent history (if known), the presence of hostile crowds or agitators, and if the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence (Board Review 19).

NYPD Patrol Guide Procedure 221-02 defines active resisting as physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing or verbally signaling an intention to avoid or prevent being taken into or retained in custody (Board Review 20)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Allegation (M) Discourtesy: At § 87(2)(b) in Queens, officers spoke discourteously to

§ 87(2)(b)

Allegation (N) Abuse of Authority: At § 87(2)(b) in Queens, officers threatened § 87(2)(b)

Allegation (O) Abuse of Authority: At § 87(2)(b) in Queens, Police Officer Brian Gilmor threatened § 87(2)(b)

Allegation (P) Discourtesy: At § 87(2)(b) in Queens, Police Officer Brian Gilmor spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 08) testified that he yelled at the officers while seated on the couch prior to being taken to the ground. Several officers responded, “Fuck you, little shit.” While § 87(2)(b) was seated on the couch, officers told § 87(2)(b) “Stop fucking moving,” and said, “We’re going to fuck you up if you keep moving.” § 87(2)(b) could not tell how many officers made these statements but believed approximately five of them did and one of them was PO Gilmor.

PO Gilmor, PO Pala, PO Korn, and PO Strauss (Board Reviews 10-14) all testified that they did not say, “Stop fucking moving,” “We are going to fuck you up if you keep moving,” or “Fuck you, you little shit” at any point during the incident.

The BWC footage the responding officers, all of whom recorded the entire incident respectively, did not capture the above statements being made at any point by any individual (Board Review 03).

§ 87(2)(b), § 87(2)(g)

Allegation (Q) Discourtesy: At § 87(2)(b) in Queens, Police Officer Anthony Pala spoke discourteously to § 87(2)(b)

The following allegations were captured on BWC and not alleged by § 87(2)(b)

PO Pala's BWC (Board Review 07, IA # 166), beginning at 1:55 minutes, shows § 87(2)(b) and the officers engaged in a physical struggle. Officers push § 87(2)(b) towards the couch, where § 87(2)(b) kneels on the cushions with his torso against the backrest. PO Pala says, "Hold his ass down. Hold his fucking ass down." At 2:15 minutes, PO Pala says, "Pull his leg up. Pull his fucking leg up." At 3:25 minutes, § 87(2)(b) attempts to stand, and PO Lepre and PO Gilmor push down on his shoulders until he is seated again. Immediately thereafter, § 87(2)(b) kicks his right leg outward, appearing to make contact with PO Lepre. Officers immediately approach § 87(2)(b) and PO Lepre and PO Korn are seen holding his legs down at the thighs. At 05:50, an officer, identified by the investigation as PO Pala, says to § 87(2)(b) "You're being a fucking baby." At 5:55 minutes, PO Pala says, "Put him on his face. Put him on his fucking face. Put him on his fucking face." Officers immediately remove § 87(2)(b) from the couch and put him on the floor on his front side. At 6:05 minutes, it appears PO Pala yells, "Enough. The fuck are you biting?"

PO Pala (Board Review 11, 12) acknowledged saying, "Hold his ass down, hold his fucking ass down." PO Pala made this statement because § 87(2)(b) fought the officers by kicking them and spitting in their faces. PO Pala stated that when he is fighting with someone, he sometimes uses language to subdue them. PO Pala acknowledged saying, "Pull his legs up. Pull his fucking legs up." PO Pala made this statement because his adrenaline was high, and he was in a high-risk situation PO Pala denied saying, "You're being a fucking baby," to § 87(2)(b) and could not identify the voice in the video that made that statement. PO Pala acknowledged saying, "Put him on his fucking face." PO Pala made this statement because § 87(2)(b) continued to resist. § 87(2)(b) continued to kick, bite, and spit while the officers brought him to the ground. PO Pala denied saying, "The fuck you biting," PO Pala clarified that he said, "The fuck you playing with?" instead. PO Pala made this statement because § 87(2)(b) had been fighting with the officers for approximately six minutes and his adrenaline was high.

The investigation determined that PO Pala said, "You're being a fucking baby," as well because this statement was made directly before and in conjunction with the statement, "Put him on his fucking face," which PO Pala admitted to saying. Additionally, the voice making both statements sound the same.

NYPD Patrol Guide Procedure 203-09 requires officers to be courteous and respectful (Board Review 28). NYPD Disciplinary Case No. 2017-17276 states that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation (Board Review 21).

§ 87(2)(b), § 87(2)(g)

spoke discourteously to § 87(2)(b)

stationhouse. § 87(2)(b) called the precinct and stated that § 87(2)(b) threatened her. § 87(2)(b) and PO Gilmor engaged in an argument about this. During the argument, PO Gilmor said, “Kiss my ass,” and, “Fuck you,” to § 87(2)(b). During his time at the stationhouse, § 87(2)(b) asked officers for food and water. PO Gilmor responded, “You ain’t getting shit,” and, “Fuck you, this is not McDonalds. You can’t have it your way.”

██████████ and threatened her and her son, which violated his order of protection. PO Gilmor did not say “Kiss my ass,” “Fuck you” “You ain’t getting shit,” or “Fuck you, this isn’t McDonalds,” to § 87(2)(b) ██████████.

The investigation did not obtain any video evidence that covered this portion of the incident.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

○ § 87(2)(b) [REDACTED]

- PO Gilmor has been a member of service for four years and has been named a subject in one CCRB complaint and one allegation, which was not substantiated. PO Gilmor’s CCRB history does not reflect any pattern pertinent to this investigation.
- PO Pala has been a member of service for four years and has been named a subject in four CCRB complaints and four allegations, none of which were substantiated. PO Pala’s CCRB history does not reflect any pattern pertinent to this investigation.
- The CTS database did not reveal how many years PO Korn was a member of service. PO Korn was named a subject in one CCRB complaint and one allegation, which was not substantiated. PO Korn’s CCRB history does not reflect any pattern pertinent to this investigation.
- PO Strauss has been a member of service for four years and has been named a subject in three CCRB complaints and five allegations. PO Strauss’s CCRB history does not reflect any pattern pertinent to this investigation.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 17, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 29).

• § 87(2)(b) [REDACTED]

§ 87(2)(b)

Squad No.: 3

Investigator:	Charis Jones	Inv. Charis Jones	08/19/2021
	_____ Signature	_____ Print Title & Name	_____ Date

Squad Leader: Olga Golub IM Olga Golub 08/19/2021
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____